

ESTTA Tracking number: **ESTTA234250**

Filing date: **09/03/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Anheuser-Busch, Incorporated
Granted to Date of previous extension	09/03/2008
Address	One Busch Place St. Louis, MO 63118 UNITED STATES
Attorney information	Gary A. Pierson II Husch Blackwell Sanders LLP 720 Olive Street Suite 2400 St. Louis, MO 63101 UNITED STATES gary.pierson@huschblackwell.com, ralph.kalish@huschblackwell.com, jenny.birmingham@huschblackwell.com Phone:314-345-6000

Applicant Information

Application No	77337273	Publication date	05/06/2008
Opposition Filing Date	09/03/2008	Opposition Period Ends	09/03/2008
Applicant	JaniceM. Kruse 1200 Myrtle Ave. Apt. #1 Jefferson City, MO 65109 UNITED STATES		

Goods/Services Affected by Opposition

Class 040. All goods and services in the class are opposed, namely: Custom imprinting of of shirts, hats, glass, bumperstickers, with decorative designs; Imprinting messages on T-shirts; Imprinting messages on wearing apparel, accessories and mugs; Printing of patterns on textiles; Remastering of films from one format to another

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	666367	Application Date	11/18/1957
Registration Date	08/26/1958	Foreign Priority	NONE

		Date	
Word Mark	BUD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1939/06/00 First Use In Commerce: 1939/06/00 BEER		

U.S. Registration No.	1261873	Application Date	09/20/1982
Registration Date	12/20/1983	Foreign Priority Date	NONE
Word Mark	BUD LIGHT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1982/04/01 First Use In Commerce: 1982/04/01 Beer		

U.S. Registration No.	999817	Application Date	03/06/1974
Registration Date	12/17/1974	Foreign Priority Date	NONE
Word Mark	BUD MAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1969/02/18 First Use In Commerce: 1969/03/18 BEER		

U.S. Registration No.	1567443	Application Date	02/06/1989
Registration Date	11/21/1989	Foreign Priority Date	NONE
Word Mark	BUD BOWL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1988/12/26 First Use In Commerce: 1989/01/01 BEER		

U.S. Registration No.	64125	Application Date	07/03/1905
Registration Date	07/23/1907	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class U048 (International Class 032). First use: First Use: 1876/01/00 First Use In Commerce: 1876/01/00 BEER

U.S. Registration No.	922481	Application Date	10/28/1970
Registration Date	10/19/1971	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1876/01/00 First Use In Commerce: 1876/01/00 BEER		

U.S. Registration No.	952277	Application Date	11/01/1971
Registration Date	01/30/1973	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U048 (International Class 032). First use: First Use: 1876/01/00 First Use In Commerce: 1876/01/00 BEER [AND MALT LIQUOR]		

U.S. Registration No.	3011229	Application Date	08/30/2004
Registration Date	11/01/2005	Foreign Priority Date	NONE
Word Mark	BUDWEISER SELECT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2004/10/26 First Use In Commerce: 2004/10/26 BEER		

U.S. Registration No.	1332479	Application Date	06/21/1982
Registration Date	04/23/1985	Foreign Priority Date	NONE
Word Mark	THIS BUD'S FOR YOU		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1980/03/01 First Use In Commerce: 1980/03/01 Beer		

U.S. Registration No.	1401344	Application Date	11/29/1985
Registration Date	07/15/1986	Foreign Priority Date	NONE
Word Mark	BUD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1965/00/00 First Use In Commerce: 1965/00/00 CAPS, HATS, SWEATSHIRTS, SWEATPANTS, SHIRTS, AND SHORTS		

U.S. Registration No.	1485363	Application Date	08/14/1987
Registration Date	04/19/1988	Foreign Priority Date	NONE
Word Mark	BUD LIGHT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 CLOTHING, NAMELY CAPS, HATS, VISORS, T-SHIRTS, SHIRTS, SHORTS, JACKETS, [VESTS, BELTS,] SOCKS, SWEATSHIRTS, SUSPENDERS, SCARVES, WIND-RESISTANT JACKETS, SWEATERS, [APRONS] AND WARM-UP SUITS		

U.S. Registration No.	1495924	Application Date	11/13/1987
Registration Date	07/12/1988	Foreign Priority Date	NONE
Word Mark	BUD LIGHT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1982/00/00 First Use In Commerce: 1982/00/00 CLOTHING - NAMELY, HATS, JACKETS, SCARVES, SHORTS, SHIRTS, SWEATERS, VISORS		

U.S. Registration No.	2648605	Application Date	04/23/2001
Registration Date	11/12/2002	Foreign Priority Date	NONE
Word Mark	BUD KING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/01/00 First Use In Commerce: 2000/01/00 clothing, namely shirts, hats and jackets		

U.S. Registration	1561099	Application Date	02/27/1989
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No.			
Registration Date	10/17/1989	Foreign Priority Date	NONE
Word Mark	BUD BOWL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1988/10/25 First Use In Commerce: 1988/10/25 CLOTHING - NAMELY, HATS AND SHIRTS,		

U.S. Registration No.	3165347	Application Date	04/05/2006
Registration Date	10/31/2006	Foreign Priority Date	NONE
Word Mark	BUD MAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1972/12/31 First Use In Commerce: 1972/12/31 Clothing, namely, shirts, headwear, and masquerade costumes		

U.S. Registration No.	1632431	Application Date	03/05/1990
Registration Date	01/22/1991	Foreign Priority Date	NONE
Word Mark	THIS BUD'S FOR YOU		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 clothing, namely, [aprons,] hats, shirts, sweatshirts [, and jackets]		

U.S. Registration No.	1360746	Application Date	02/25/1985
Registration Date	09/17/1985	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1938/07/00 First Use In Commerce: 1938/07/00 APRONS, HEADBANDS, WRIST BANDS, BANDANAS, BELTS, SUSPENDERS, [BLAZERS,] BLOUSES, CAPS, [GOLF GLOVES,] HATS, JACKETS, SKI JACKETS, VESTS, SCARVES, JERSEYS, PONCHOS, RAINWEAR, ROBES, SHIRTS, SHORTS, SLACKS, SOCKS, [SPORT COATS,] ATHLETIC SUITS, SWEATSHIRTS, SWIMSUITS, SWEATERS, NECKTIES, UNIFORMS, AND VISORS		

U.S. Registration No.	1506060	Application Date	02/12/1988
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Registration Date	09/27/1988	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1987/06/22 First Use In Commerce: 1987/06/22 CLOTHING -NAMELY, SHOES		

U.S. Registration No.	2627994	Application Date	08/03/2001
Registration Date	10/01/2002	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 Pool tables, pool cues, darts, dart boards, golf bags, golf clubs, golf club covers, golf tees, golf balls, pool chalk cases, golf ball retrievers, pool cue racks, adult collectible die-cast trucks and cars, playing cards, hockey sticks, hockey pucks, tackle boxes, golf gloves, fishing tools, ball markers, divot sets, volleyball nets, bicycles, ski biscuits, bowling balls, bowling bags, and fishing poles		

U.S. Registration No.	2506291	Application Date	10/13/2000
Registration Date	11/13/2001	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2000/06/00 First Use In Commerce: 2000/06/00 Bowling balls		

U.S. Registration No.	2856175	Application Date	12/20/1999
Registration Date	06/22/2004	Foreign Priority Date	NONE
Word Mark	BUDWEISER TRUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/06/19 First Use In Commerce: 2000/06/19 wearing apparel, namely t-shirts and hats		

U.S. Registration No.	1733107	Application Date	06/10/1991
Registration Date	11/17/1992	Foreign Priority Date	NONE

Word Mark	BUD LIGHT
Design Mark	
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 1984/00/00 First Use In Commerce: 1984/00/00 serving trays not of precious metal, portable coolers, bottle openers, drinking vessels and thermal insulated containers for beverages

U.S. Registration No.	2531846	Application Date	12/04/2000
Registration Date	01/22/2002	Foreign Priority Date	NONE
Word Mark	BUD MAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 1999/08/01 First Use In Commerce: 1999/08/01 Drinking vessels		

U.S. Registration No.	2558619	Application Date	04/26/2001
Registration Date	04/09/2002	Foreign Priority Date	NONE
Word Mark	BUD KING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 2001/02/00 First Use In Commerce: 2001/02/00 DRINKING VESSELS		

U.S. Registration No.	1443856	Application Date	11/20/1986
Registration Date	06/23/1987	Foreign Priority Date	NONE
Word Mark	BUDWEISER		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 006. First use: First Use: 1945/00/00 First Use In Commerce: 1945/00/00 KEY CHAINS, ORNAMENTAL BADGES MADE PRIMARILY OF METAL [, AND METAL CLIPS FOR CLOSING BAGS]</p> <p>Class 016. First use: First Use: 1938/00/00 First Use In Commerce: 1938/00/00 PLAYING CARDS, PENS, PENCILS, [WRITING BOARDS,] PAPER NAPKINS, COASTERS, [GREETING CARDS,] NOTE PAPER [, PAPER CLIPS, GIFT WRAPPING PAPER,] AND PAPER PENNANTS</p> <p>Class 018. First use: First Use: 1938/00/00 First Use In Commerce: 1938/00/00 TOTE BAGS, BILLFOLDS AND UMBRELLAS</p> <p>Class 020. First use: First Use: 1904/00/00 First Use In Commerce: 1904/00/00 MIRRORS, PLAQUES, [NAME BADGES, PLASTIC CLIPS FOR CLOSING BAGS,] CABINETS [AND BAR STOOLS]</p>		

	<p>Class 021. First use: First Use: 1876/00/00 First Use In Commerce: 1876/00/00 DRINKING VESSELS, BEER PAILS, TRAYS, BOTTLE OPENERS, [FLOWER HOLDERS,] HEAT INSULATED CONTAINERS FOR BEVERAGES, AND BEER CARRIERS AND COOLERS</p> <p>Class 024. First use: First Use: 1904/00/00 First Use In Commerce: 1904/00/00 TOWELS, AND PENNANTS NOT OF PAPER</p> <p>Class 026. First use: First Use: 1938/00/00 First Use In Commerce: 1938/00/00 BELT BUCKLES, ORNAMENTAL PINS, [BUTTONS FOR CLOTHING AND SHOE LACES]</p> <p>Class 034. First use: First Use: 1938/00/00 First Use In Commerce: 1938/00/00 MATCHES, ASHTRAYS, AND LIGHTERS FOR SMOKERS</p>
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Attachments	<p>78475474#TMSN.jpeg (1 page)(bytes)</p> <p>73694950#TMSN.gif (1 page)(bytes)</p> <p>76245059#TMSN.gif (1 page)(bytes)</p> <p>78854638#TMSN.jpeg (1 page)(bytes)</p> <p>76295433#TMSN.gif (1 page)(bytes)</p> <p>76146902#TMSN.gif (1 page)(bytes)</p> <p>75876630#TMSN.gif (1 page)(bytes)</p> <p>76174538#TMSN.gif (1 page)(bytes)</p> <p>76246987#TMSN.gif (1 page)(bytes)</p> <p>AB Opposition.pdf (6 pages)(355652 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Gary A. Pierson II/
Name	Gary A. Pierson II
Date	09/03/2008

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on September 3, 2008.

/s/ Gary A. Pierson II

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Mark: GODSWISER THAN BUD
Application Serial No. 77/337,273

ANHEUSER-BUSCH, INCORPORATED)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
JANICEM. KRUSE, D/B/A THE)	
GODSWISER PRODJECT, LLC,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Anheuser-Busch, Incorporated. (“Anheuser-Busch” or “Opposer”), a corporation organized and existing under the laws of the State of Missouri, having its principal place of business at One Busch Place, St. Louis, Missouri, is being and will be damaged by the registration of the trademark GODSWISER THAN BUD as shown in Serial No. 77/337,273 filed by JaniceM. Kruse, d/b/a The Godswiser Prodject, LLC (“Applicant”), and hereby opposes same.

As grounds for opposition, it is alleged that:

1. Applicant applied for registration of GODSWISER THAN BUD in connection with custom imprinting of shirts, hats, glass, bumperstickers, with decorative designs; imprinting messages on t-shirts; imprinting messages on wearing apparel, accessories and mugs; printing of

patterns on textiles; remastering of films from one format to another (“Applicant’s Goods”) by an application filed November 26, 2007.

2. Opposer and its predecessors have been marketing beer for more than a century, and Opposer is the leading brewer and marketer of beer in the United States.

3. Since long prior to Applicant’s filing date and continuously to the present, Opposer has extensively marketed beer in interstate commerce under or in connection with various marks that all include “BUD”, including but not limited to, BUD, BUD LIGHT, BUD MAN, BUD ICE, BUD BOWL, BUDWEISER, BUDWEISER SELECT, and THIS BUD’S FOR YOU (collectively “BUD Marks”).

4. Opposer has and continues to promote its BUD Marks in interstate commerce within the United States for identifying Opposer’s good and services.

5. Opposer is the owner of numerous United States Trademark Registrations, including but not limited to those noted below:

<u>TRADEMARK</u>	<u>GOODS</u>	<u>REG. NO.</u>
BUD	Beer	666,367
BUD LIGHT	Beer	1,261,873
BUD MAN	Beer	999,817
BUD BOWL	Beer	1,567,443
BUDWEISER	Beer	64,125
BUDWEISER	Beer	922,481
BUDWEISER	Beer	952,277
BUDWEISER SELECT	Beer	3,011,229
THIS BUD’S FOR YOU	Beer	1,332,479

These registrations are valid, subsisting, and owned by Opposer. Except for Registration No. 3,011,229, all of the above registrations are incontestable pursuant to 15 U.S.C. §§1064 and 1115(b).

6. Opposer has sold billions of dollars worth of its beer under or in connection with its BUD Marks and has spent hundreds of millions of dollars advertising and promoting its beer under or in connection with these marks.

7. Since long prior to Applicant's filing date and continuing to the present, Opposer, itself and through its licensees, has extensively marketed a wide assortment of other consumer products in interstate commerce in connection with its BUD Marks, including, but not limited to shirts, caps, hats, visors, jackets, shorts, adult collectible miniature vehicles, collectible drinking glasses and steins, collectible figurines, replica collectibles, such as phones, signs, lamps, mirrors, and bar stools (collectively "BUD Products").

8. Opposer has registered its BUD Marks in the PTO for many of these BUD Products. Opposer's registrations include, but are not limited to:

<u>TRADEMARK</u>	<u>GOODS/SERVICES</u>	<u>REG. NO.</u>
BUD	Caps, hats, sweatshirts, sweatpants, shirts and shorts	1,401,344
BUD LIGHT	Clothing, namely caps, hats, visors, t-shirts, shirts, shorts, jackets, socks, sweatshirts, suspenders, scarves, wind-resistant jackets, sweaters, and warm-up suits	1,485,363
BUD LIGHT & Design	Clothing, namely, hats, jackets, scarves, shorts, shirts, sweaters, visors	1,495,924
BUD KING	Clothing, namely shirts, hats and jackets	2,648,605
BUD BOWL	Clothing; namely hats and shirts	1,561,099
BUD MAN	Clothing, namely, shirts, headwear, and masquerade costumes	3,165,347
THIS BUD'S FOR YOU	Clothing, namely, hats, shirts, sweatshirts	1,632,431
BUDWEISER	Aprons, headbands, wrist bands, bandanas, belts, suspenders, blouses, caps, hats, jackets, ski jackets, vests, scarves, jerseys, ponchos, rainwear, robes, shirts, shorts, slacks, socks, athletic suits, sweatshirts, swimsuits, sweaters, neckties, uniforms, and visors	1,360,746
BUDWEISER	Clothing, namely, shoes	1,506,060

<u>TRADEMARK</u>	<u>GOODS/SERVICES</u>	<u>REG. NO.</u>
BUDWEISER	Pool tables, pool cues, darts, dart boards, golf bags, golf clubs, golf club covers, golf tees, golf balls, pool chalk cases, golf ball retrievers, pool cue racks, adult collectible die-cast trucks and cars, playing cards, hockey sticks, hockey pucks, tackle boxes, golf gloves, fishing tools, ball markers, divot sets, volleyball nets, bicycles, ski biscuits, bowling balls, bowling bags, and fishing poles.	2,627,994
BUDWEISER	Bowling balls	2,506,291
BUDWEISER TRUE	Wearing apparel, namely t-shirts and hats	2,856,175
BUDWEISER	<u>Inter alia</u> , playing cards, pens, pencils, paper napkins, coasters, note paper and paper pennants; drinking vessels, beer pails, trays, bottle openers, heat insulated containers for beverages, beer carriers and coolers	1,443,856
BUD LIGHT	<u>Inter alia</u> , drinking vessels and thermal insulated containers for beverages	1,733,107
BUD MAN	Drinking vessels	2,531,846
BUD KING	Drinking vessels	2,558,619

These registrations are valid, subsisting, and owned by Opposer. Registration Nos. 1,360,746; 1,401,344; 1,443,856; 1,485,363; 1,495,924; 1,733,107; 1,506,060; 2,506,291; and 1,561,099 are incontestable pursuant to 15 U.S.C. §§ 1064 and 1115(b).

9. Opposer has sold millions of dollars worth of its BUD Products, and has spent hundreds of thousands of dollars promoting its BUD Products under or in connection with its BUD Marks.

10. Prior to Applicant's filing date, and as a result of Opposer's aforesaid marketing and sale of its beer and other BUD Products, Opposer's BUD Marks had become extremely well known and had acquired a secondary meaning identifying Opposer and its beer and BUD Products.

11. Since long prior to Applicant's filing date, Opposer's BUD Marks for its beer and its BUD Products have constituted a family of marks.

12. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant made actual use of the opposed mark in connection with the covered goods prior to Applicant's filing date.

13. Applicant's use of the mark GODSWISER THAN BUD (Application Serial No. 77/337,273) is without Opposer's consent or authorization.

14. Applicant's registration of GODSWISER THAN BUD (Application Serial No. 77/337,273) for use in connection with Applicant's Goods would be damaging to Opposer.

COUNT I – LIKELIHOOD OF CONFUSION

15. Opposer realleges Paragraphs 1 through 14 as though fully set forth herein.

16. Applicant's use of GODSWISER THAN BUD in connection with Applicant's Goods is likely to cause confusion, mistake, or deception in that consumers are likely to believe that Applicant's products are Opposer's products or the products of a company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposer.

COUNT II – DILUTION

17. Opposer realleges Paragraphs 1 through 14 as though fully set forth herein.

18. Since long prior to Applicant's filing date, each of Opposer's BUD Marks and Opposer's family of BUD Marks had become distinctive and famous in accordance with 15 U.S.C. § 1125(c).

19. Applicant's proposed use of GODSWISER THAN BUD in connection with Applicant's Goods is likely to cause dilution of the distinctive quality of each of Opposer's famous BUD trademarks and its famous family of BUD Marks.

WHEREFORE, Opposer respectfully prays that this opposition be sustained and that Application Serial No. 77/337,273 be denied registration.

DATE: September 3, 2008.

ANHEUSER-BUSCH, INCORPORATED

By: /Gary A. Pierson II/

Gary A. Pierson II
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Attorneys for Opposer Anheuser-Busch
Incorporated

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Opposition was served by First Class Mail, postage prepaid on this day, September 3, 2008 upon the following:

Applicant:

JaniceM. Kruse
1200 Myrtle Ave
Jefferson City, MO 65109-2591

/Gary A. Pierson II/